



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 12, 1991

Mr. Leonard W. Peck, Jr.
Assistant General Counsel
Texas Department of Criminal Justice
Institutional Division
P. O. Box 99
Huntsville, Texas 77342-0099

OR91-636

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 14244.

You have received a request for twenty categories of information. You advise us that you have no objections to the release of nineteen of these categories; however, you claim that category fourteen, "the Administrative Manual(s) pertaining to the Internal Affairs Division for TDCJ-ID in effect between 1988-91," constitutes information excepted from required public disclosure by section 3(a)(8) of the Open Records Act.

Section 3(a)(8) excepts

records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution.

When the "law enforcement" exception is claimed as a basis for excluding information from public view, the agency claiming it must reasonably explain, if the

information does not supply the explanation on its face, how and why its release would unduly interfere with law enforcement, and a case-by-case approach is necessary. Open Records Decision No. 434 (1986) at 2; *see also* Open Records Decision No. 287 (1981). Open Records Decision No. 531 (1989) held that section 3(a)(8) authorized the San Antonio Police Department to withhold the portions of its use of force procedures prepared for its officers that detail guidelines on the use of force. Portions of the procedures, however, which related to generally known common-law rules, constitutional limitations, or Penal Code provisions were deemed public information.

You have submitted to us for review a complete copy of the "Internal Affairs Policy and Procedures Manual" (the "manual"). The manual contains seven chapters, numbered 01.01 through 07.16. Much of the manual relates to the policies, organization, and administrative functions of the Internal Affairs Division. Chapters 01.01 through 02.03 of the manual include information relating to division policy, procedures, organization, mission, and philosophy. Chapters 3.01 through 06.01 include information relating to the administrative functions of different bureaus, including the Administrative Support Bureau, the Use of Force Review Bureau, and the Polygraph Section. Generally, information contained in these sections relates only to the policy, organization, and administration of the division. You have not indicated how release of these materials would "unduly interfere" with law enforcement. The documents described above do not provide such an explanation on their face. Accordingly, chapters 01.01 through 06.01 must be released in their entirety.

Chapter 7 relates to the Investigative Operations Bureau. Again, much of the information contained in this chapter relates to policy, organization, and administrative functions of the governmental body. Sections 7.01, 7.03, 7.07 (not including attachments), and 7.11 relate exclusively to policy, organization, and administrative functions. None of the information contained in these sections, with the exceptions noted above, would "unduly interfere" with law enforcement if released. Accordingly, these sections too, except for the attachments to section 7.07, must be disclosed in their entirety.

Section 7.06 contains information which details specific allegations made by inmates against police officers. You have not provided any argument as to why such information is excepted under section 3(a)(8); however, we believe that, on its face, some of the information would "unduly interfere" with law enforcement if released.

For your convenience, we have marked the information included in section 7.06 (not including attachments) which you may withhold from required public disclosure under section 3(a)(8).

Sections 7.06 and 7.07 contain respectively 27 and six attachments. Some of these attachments include blank forms and worksheets, all of which must be disclosed. The remainder of the information, however, contains information the disclosure of which we conclude would "unduly interfere" with law enforcement. In particular, such information reveals "Use of Force" policies, *see* Open Records Decision No. 531, *supra*, and investigative techniques that would undermine the law enforcement agency's ability to detect and prevent crime. Because this information is inextricably intertwined with information that would ordinarily be public, we conclude that attachments to sections 7.06 and 7.07, except for the blank forms, may be withheld from required public disclosure under section 3(a)(8).

Sections 7.02, 7.04, 7.05, 7.08, 7.09, 7.10, 7.12, 7.13, and 7.16 also include information that we conclude would "unduly interfere" with law enforcement if released. Although these sections also include some information that would ordinarily be available to the public, the information is so inextricably intertwined with confidential information as to render separation impracticable. Accordingly, these sections may be withheld from required public disclosure under section 3(a)(8) of the Open Records Act.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-636.

Yours very truly,

A handwritten signature in cursive script, reading "Mary R. Crouter".

Mary R. Crouter
Assistant Attorney General
Opinion Committee

MRC/GK/lcd

Ref.: ID# 14244
ID# 14299

cc: Mr. Eduardo Benavides
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